

**REPORT - PLANNING COMMISSION MEETING  
November 18, 2004**

**Project Name and Number:** Tentative Parcel Map 8244 (PLN2004-00042)

**Applicant:** Yiichung (Ivan) Ko

**Proposal:** To consider Tentative Parcel Map 8244 to subdivide one 1.04-acre parcel into three new single-family residential parcels, averaging 15,000± square feet.

**Recommended Action:** Approve, based on findings and subject to conditions

**Location:** 46970 Ocotillo Court, Warm Springs Planning Area.

**Assessor Parcel Number:** 519-1662-007-00, (Lot 26 of Tract 3723)

**Area:** 1.04 Acres or 45,302 Square Feet

**Owner:** Yiichung (Ivan) Ko

**Agent of Applicant:** Chuck Ludwig, Engineer, Fremont Engineers, Inc.

**Consultant(s):** Chuck Ludwig, Engineer, Fremont Engineers, Inc.

**Environmental Review:** Categorically exempt per CEQA Section 15315, Minor Land Division.

**Existing General Plan:** Low Density Residential, 3-5 dwelling units per acre.

**Existing Zoning:** R-1-10 (H-I), Single-family Residence District (Hillside Combining District)

**Existing Land Use:** Single Family Residence

**Public Hearing Notice:** Public hearing notification is applicable. A total of 26 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Zapotec Drive, Yakima Drive, Ocotillo Court, and among others. The notices to owners and occupants were mailed on November 5, 2004. A Public Hearing Notice was delivered to The Argus on November 1, 2005 to be published by November 4, 2004.

**Background and Previous Actions:** On August 16, 1977, the City Council approved Tract Map 3723 which created a 39-lot subdivision in the Warm Springs Planning Area, south of Mission Boulevard and east of Interstate 680, commonly known as the "Glenmoor Hills". Since the adoption of the Tract Map, many property owners of larger lots proposed and were approved for further subdivisions of their lots, consistent with the R-1-10 (H-I) Zoning District and applicable regulations thereof, as well as conformity with the Low Density Residential (3-5 Dwelling Unit/Acre) General Plan designation. Specific zoning criteria applicable to the tract and statutory regulations of the Subdivision Map Act were required to be met, namely conformity to General Plan and Zoning Ordinance regulations (e.g., minimum lot size, dimensions, acceptable access, etc.), prior to approval of these further subdivisions.

**Project Description:** The proposed project is a subdivision of a 1.04-acre lot, Lot 26 of Tract 3723. The project parcel contains a single-family residence, a swimming pool, an outdoor deck and a few other accessory structures. The single-family residence and swimming pool are proposed for demolition and the site would be cleared of all structures as described in the proposal. The trees identified on the plan would be preserved on the site. The proposed lot area and configurations are, as follows: Parcel 1 would be the largest at 15,684 square feet and a corner lot with frontages on both Ocotillo Court and Yakima Drive; Parcel 2 would be the smallest at 13,966 square feet with frontage on Yakima Drive; and, Parcel 3 would be 15,720 square feet with frontage on Ocotillo Court.

**Existing Site and Surrounding Land Use:** The project parcel is approximately 1.04 acres in size and contains an existing single-family home. The project parcel has an average slope of approximately 7 percent. The project parcel is located within an established single-family neighborhood originally created by Tract 3723 with lots averaging larger than 10,000 square feet in size and is surrounded by developed single-family parcels and is not topographically constrained.

Since the original establishment of the tract, the City has approved a number of subdivisions in the surrounding area. The Planning Commission recently approved two separate parcel map subdivisions in the neighborhood located at 870 and 835 Yakima Drive, northwest of the project parcel. On the parcel located at 46953 Ocotillo Court, directly on the adjacent corner, west of the project parcel, another parcel map subdivision is currently being proposed and is under review. While there are many smaller parcels averaging over 15,000 square feet north of the project parcel on Yakima Drive, some larger parcels of one acre in size (e.g., Lots 25 and 27 on map) are located to the south and southwest on Ocotillo Court. Some of these larger lots are also partially located within a potential seismic hazard area identified by the State Geologist, requiring site-specific geotechnical investigations. The project parcel, though, is not located within the identified seismic hazard area.

### **Project Analysis:**

- **General Plan Conformance:** The existing General Plan land use designation for the project site is Low Density Residential, 3-5 dwelling units per acre. The proposed project is consistent with the General Plan and the goals and objective of the Housing Element because it provides an opportunity for the development of additional single-family units in the City.

#### **General Plan Fundamental Goal F-2: A harmonious blend of the natural and built environments.**

The proposed subdivision would be consistent with the overall existing character of the neighborhood in that all applicable subdivision standards are met. These standards are identical to those applied to the original 39-lot subdivision which created the project parcel and its neighboring parcels.

- **Zoning Regulations:** The project site is zoned R-1-10 (H-I), Single-family Residence District (Hillside Combining District).

Setbacks—Staff has reviewed the proposal and finds that the subdivision is in compliance with the R-1-10 (H-I) standards. The future development of residences on the three new parcels could be sufficiently accommodated in conformance with those standards. The R-1-10 building setbacks are: a 25-foot front yard setback; a 30-foot rear yard setback; and, minimum side yard setbacks of 8 feet and 12 feet for a proposed one-story structure or 10 feet on both sides for a proposed two-story structure. All new residences proposed in the future are required to comply with the zoning designation in effect at the time (Condition 16). In addition, because the site is predominantly flat and that there are no areas of constrained land (slopes of 30% or greater), future development of the proposed three parcels would not involve difficulty in complying to development regulations.

Lot Size—The minimum lot size for the R-1-10 (H-I) Zoning District is 10,000 square feet. The proposed lot dimensions and lot sizes of the 3 proposed parcels conform to the Zoning District's requirements. The three proposed lots, at 15,684 square feet (Parcel 1), 13,966 square feet (Parcel 2), and 15,720 square feet (Parcel 3), are also compatible in terms of lot size and shapes of surrounding parcels in the neighborhood. In addition, the proposed project complies with the increased lot width and area requirements for parcels within the Hillside Combining District (H-I).

- **Circulation/Access Analysis:** Access to proposed Parcels 1 and 3 are proposed from Ocotillo Court and new Parcel 2 will be from Yakima Drive. Ocotillo Court and Yakima Drive are existing improved public roads, designed in compliance with the conditions of approval of Tract 3723. No further street improvements are required, except the installation of a new driveway for proposed Parcel 2. Proposed Parcels 1 and 3 will reuse the existing driveway curb-cuts on Ocotillo Court currently used by the residence proposed for demolition. Installation of the additional driveway curb-cut for proposed Parcel 2 on Yakima Drive and potential repairs to existing driveway curb-cuts proposed for

Parcel 1 and 3 are not required until building permit issuance. A note referencing this future improvement obligation would be placed on the final parcel map.

**City Landscape Architect Review of Proposed Tree Removal and Preservation:** The site contains 49 mature trees as shown on the Tentative Parcel Map Exhibit A. There are a total of 43 trees on site that are worthy of preservation. The following trees shall be preserved: T1-T3, T5, T11-T18, T20-T27, T30-32, T35, T37, T40, T44, T45, and T47-T60. This is consistent with the provisions of the Tree Preservation Ordinance.

**Demolition of Existing Structures:** Prior to the demolition of the house, the property owner would be required to acquire the appropriate air quality control permits from the Bay Area Air Quality Management district (Condition 18). Additionally, that applicant would be required to apply for demolition permits to remove structures, including the removal and fill proposed for the swimming pool (Condition 17).

**Grading & Drainage:** A grading plan for the site would be required at the time of building permit application to determine whether the existing and/or proposed grading is in compliance with the requirements for grading and erosion control as set forth in the Grading Ordinance.

**Geology/Soils:** A geotechnical/soils report would be required at the time of building permit application to determine the existing soils condition, meeting building code requirements for the construction of the new residences in the future.

**Urban Runoff Clean Water Program:** The applicant would be required to conform to the City's Urban Runoff Clean Water Program requirements. Conditions of approval are proposed to be included in the grading plan at the time of building permit issuance to reflect this requirement.

**Development Impact Fees:** This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, park land dedication-in-lieu, park facilities, capital facilities and traffic impact. These shall be calculated at the fee rates in effect at the time of building permit issuance for the future three residences on the proposed parcels. A fee credit shall be given for the existing house proposed for demolition on the newly configured parcel containing the primary (and currently existing) address.

**Response from Agencies and Organizations:** A few neighboring residents have contacted staff with concerns and felt that approval of the project would result in the "physical and economical impact and degradation" of the neighborhood. The neighbors believe that the approval of the project would negatively impact property values and the existing character of the neighborhood, particularly on Ocotillo where parcels average over an acre in size.

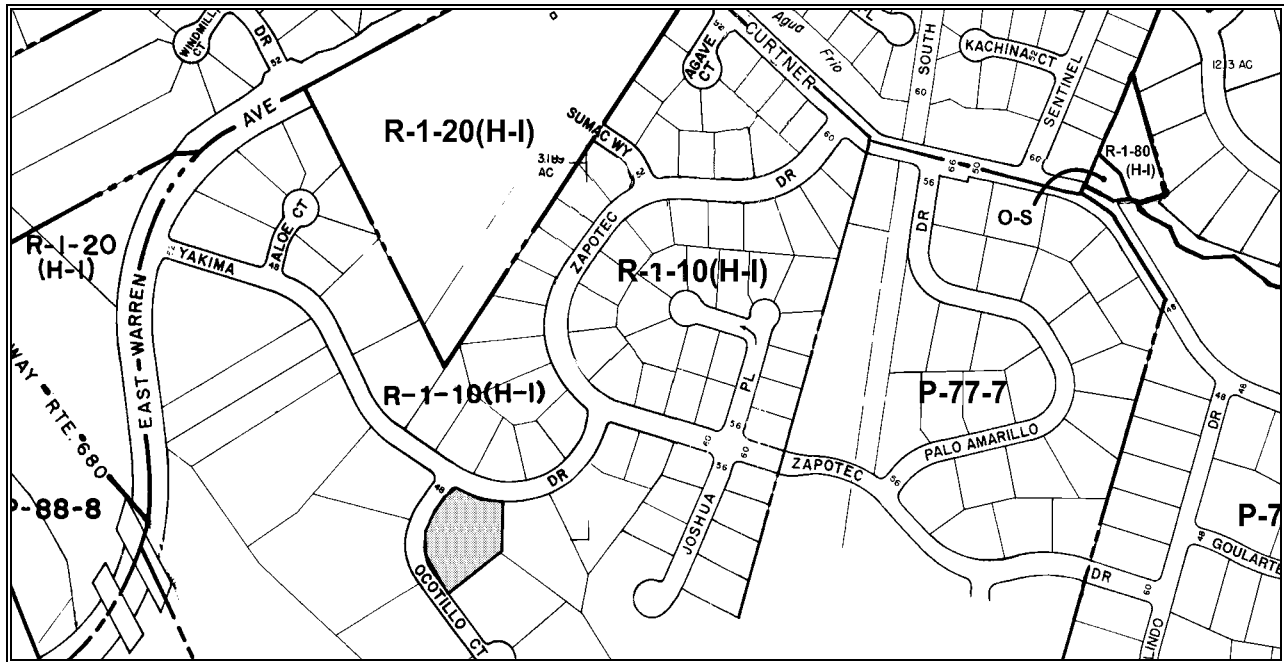
**Enclosures:** Exhibit "A" (Tentative Parcel Map 8244)  
Exhibit "B" (Findings & Conditions of Approval for TPM 8244)

**Exhibits:** Exhibit "A" (Tentative Parcel Map 8244)  
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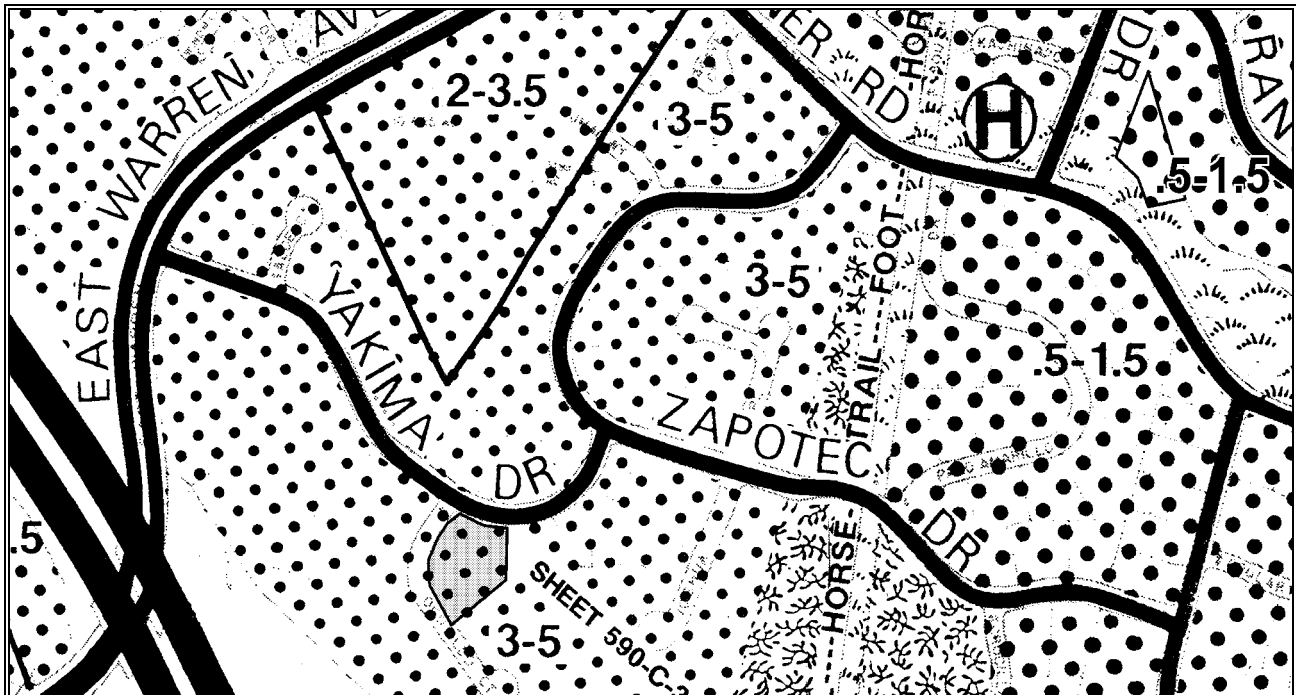
**Recommended Actions:**

1. Hold public hearing.
2. Find the proposed project to be categorically exempt from environmental review per Section 15315 of the CEQA guidelines as it relates to a minor subdivision of land.
3. Find PLN2004-00042 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan as enumerated within the staff report.
4. Approve PLN2004-00042 (Tentative Parcel Map 8244), as shown on Exhibit "A", subject to findings and conditions on Exhibit "B".

Existing Zoning  
Shaded Area represents the Project Site



Existing General Plan



**EXHIBIT "B"**  
**Findings and Conditions of Approval**  
**TENTATIVE PARCEL MAP 8244 (TPM-8244)**  
**46970 Ocotillo Court**

**FINDINGS**

The findings below are made on the basis of information contained in the staff report to the Planning Commission and information received at the Public Hearing on November 18, 2004, incorporated herein.

1. The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance because the procedural requirements of the Map Act are being followed and the proposed lots conform to the standards set forth in the Subdivision Ordinance.
2. The proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan because the proposed development conforms to the Residential, Low Density (3-5 du/acre) land use designation for the site and the goals and policies as enumerated in the staff report.
3. The site is physically suitable for the type and proposed density of the development since the proposed lot configuration is in conformance with the R-1-10 (H-I) requirements of the Zoning Ordinance and that the proposed parcels are sufficient in size and do not contain encumbrances that would preclude future development of the parcels for single-family residences.
4. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, because there is no evidence of habitat or rare endangered species at this location, as it is entirely surrounded by residential development and the site is currently developed.
5. The design of the subdivision and the type of improvements are not likely to cause public health problems since the review process of the subdivision has taken those concerns into consideration and has found that the proposal is in conformance with the City of Fremont's policies.
6. The design of the subdivision and the type of improvements would not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

**CONDITIONS:**

1. The project shall conform with Exhibit "A" (Tentative Parcel Map 8422), all conditions of approval set forth herein.
2. This Tentative Parcel Map (TPM) is being conditionally approved based on the accuracy of the information shown on Exhibit "A" and submitted with the TPM application. If any of the information is shown to be inaccurate subsequent to approval of the TPM by the City, such inaccuracy may be cause for invalidating this approval.
3. Site grading and drainage is subject to the approval of the Development Organization Engineer at the time of building permit issuance. Site grading must not obstruct natural flow from abutting properties or divert drainage from its natural watershed. The drainage area map developed for the drainage design for this project shall be based on the original drainage area map developed for the existing storm drain system and shall clearly indicate all areas tributary to the project site.
4. Any easements required by the various public utilities and public agencies shall be dedicated prior to final parcel map approval.
5. There are a total of 43 trees on site that all have potential for preservation. The following trees identified on Exhibit A Tentative Parcel Map 8244 shall be preserved as part of Tentative Parcel Map 8244 at this time, T1-T3, T5, T11-T18, T20-T27, T30-32, T35, T37, T40, T44, T45, and T47-T60. The City Landscape Architect may

review this designation when demolition or grading plans or any other plans showing proposed development are submitted to the City. All future plans submitted to the city must comply with the standards for tree preservation as per pages 4-8 of the Landscape Development Requirements and Policies (LDRP).

6. All provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP), as amended, shall apply to this project unless otherwise approved by the City Landscape Architect.
7. Any improvements in the public right-of-way necessitated by the proposed use of the subdivided property can be deferred until building permit issuance. The necessary agreements, guarantees and plans for the construction of the improvements shall be subject to the approval of the Development Organization Engineer. A note referencing this future improvement obligation is to be placed prominently on the face of the final parcel map.
8. Utility service connections, including electrical and communications, shall be installed underground.
9. Review of the tentative map by the Fire Department relative to local and State Fire Code is based on the material submitted. Therefore, if the map is revised prior to final submittal, the Fire Marshal should be contacted so that any changes may be properly reviewed and evaluated. The on-site and/or off-site fire hydrants were required, as per vesting tentative parcel map annotations, in accordance with Fremont Fire Code Article No. 13.
10. Removal of existing trees over four inches in diameter, excluding nut-bearing and fruit-bearing trees except for olive trees, shall be subject to the approval of the Senior Landscape Architect for the City. The precise location of such existing trees shall be shown on the site plan and/or landscape plan at the time of building permit application.
11. Pursuant to FMC Section 8-1524, a park dedication in-lieu fee is required for Parcel 2 and 3. The fee per parcel shall be as set forth in the City Master Fee Resolution in effect at the time the final parcel map is filed with the City Engineer for approval and all tentative parcel map conditions of approval have been satisfied.
12. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.
13. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
14. All public and private storm drain inlets are to be stenciled "No Dumping – Drains to Bay" using stencils purchased from the Alameda County Urban Runoff Clean Water Program at 951 Turner Court, Hayward, California. Color and type of paint to be as approved by the City Engineer.
15. The developer, at time of initial sale, shall provide to the buyer information on good housekeeping of hazardous products, i.e. proper use and disposal, prohibited discharge practices, etc. Informational materials will be furnished by the City.
16. Any development on this site will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities, park facilities, parkland dedication in-lieu and traffic impact. The fees shall be calculated at the rate in effect at the time of building permit issuance. The fees will be collected prior to building permit approval.
17. In accordance with Section 66474.9(b) of the Subdivision Map Act, the subdivider shall indemnify and hold harmless the City of Fremont or it's agents, officers, or employees from any claim, action, or proceeding against the City of Fremont or it's agents, officers, or employees to attack, set aside, void, or annul an approval of the City of Fremont, advisory agency appeal board, or legislative body concerning a subdivision, which action is brought within the time period provided for in Section 66499.37. The City of Fremont shall promptly notify the subdivider

of any claim, action, or proceeding to attack, set aside, void or annul its approval and shall cooperate fully in the defense.

18. Proposed residential units shall meet the setback requirements as identified in the zoning ordinance for the single family R-1-10 (H-I) Zoning District, or applicable zoning district in effect.
19. Prior to the demolition of any structures on the site (e.g., the residence, swimming pool, etc.), the applicant shall acquire demolition permits from the City's Plans and Permit Section and the air quality permits from Bay Area Air Quality Management District (BAAQMD) located in the City of San Francisco. The demolition permit for the swimming pool shall also include plans to fill in the hole.
20. Only one final Parcel Map is allowed to accomplish the lot subdivision proposed by this tentative parcel map. No "Phasing" of the final parcel map is allowed.
21. The subdivider is required to pay the City of Fremont for archive imaging of the recorded parcel map. The subdivider is also required to provide the City with a mylar copy of the recorded parcel map subsequent to its recordation.
22. The subdivider shall provide a letter from the Alameda County Water District giving the location and sealing specifications for all water wells within the subdivision. If there are no wells, a letter stating so must be provided.
23. Building and zoning considerations require specific building setbacks consistent with the R-1-10 zoning designation. The existing home and improvements encroach into the setback area and cross the future property lines. Therefore the existing home, pool and all accessory structures shall be demolished and removed from the site prior to approval of the final parcel map.
23. Any construction activities related to this project shall be limited to the following hours:  
7 a.m. to 7 p.m. Monday through Friday  
9 a.m. to 6 p.m. Saturday  
Failure to comply with the above construction hours will lead to withholding of inspections.

**SUBDIVIDER PLEASE NOTE:**

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of this tentative tract map approval. The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this tentative tract map. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.